

**STATE OF HAWAII**  
**DEPARTMENT OF LAND AND NATURAL RESOURCES**  
**Office of Conservation and Coastal Lands**  
**Honolulu, Hawaii**

**July 28, 2006**

**Board of Land and  
Natural Resources  
State of Hawaii  
Honolulu, Hawaii**

**REGARDING:** Time Extension Request to Extend the Construction Period for an Additional Two Years for Conservation District Use Permit (CDUP) MA-2705 for the Advanced Electro-Optical System (AEOS) 8- Meter Class Telescope and Related Facilities

**APPLICANT:** Dr. Rolf-Peter Kudritzki, Director  
University of Hawaii at Manoa, Institute for Astronomy

**LANDOWNER:** State of Hawaii, University of Hawaii

**LOCATION:** Haleakala High Altitude Observatory Site  
Waiakoa, Papaanui, Makawao, Island of Maui

**TMK:** (2) 2-2-007:008

**PARCEL AREA:** 18.166 Acres

**AREA OF USE:** 1.78 Acres

**SUBZONE:** General

**BACKGROUND:**

On August 26, 1994, the Board of Land and Natural Resources (Board) approved CDUP MA-2705, subject to 18 terms and conditions. Condition 5 specifically noted that any work or construction to be done on the land shall be initiated within two years of the approval of such use, and all work and construction must be completed within seven years of the approval of such use. (Exhibit 1).

The AEOS Telescope System is the largest and most sensitive telescope within the Department of Defense. Construction was begun in a timely fashion and AEOS's mirror was installed in May of 1997. In order for the system to operate at its full potential, the mirror must be recoated every six to seven years with the first recoating needed in 2004. The original design of the AEOS

facility included an 8,400 square foot mirror coating facility, however the coating facility was not constructed due to funding shortfalls.

On June 25, 2001, the Department received a time extension request by the Institute of Astronomy to extend the construction deadline for two years to complete construction of the mirror coating facility. On July 13, 2001, the Board approved this time extension request for two years to complete construction by August 25, 2003 (**Exhibit 2**).

On July 30, 2003, the Department received a second time extension request by the Institute for Astronomy to extend the construction deadline for two years to complete the construction of the mirror coating facility. On October 24, 2003, the Board approved this time extension request for two years to complete construction by August 25, 2006 (**Exhibit 3**).

#### **TIME EXTENSION REQUEST:**

On June 28, 2006, the Department received a third time extension request by the Institute for Astronomy to extend the construction deadline for an additional two-year extension to complete the construction of a mirror coating facility. According to the applicant, Congressional funding was appropriated with the passing of the FY2004 Federal budget. Construction for the mirror coating facility was initiated on January 25, 2006. Currently construction is anticipated to be completed in March 2007 (**Exhibit 4**).

#### **AUTHORITY FOR GRANTING TIME EXTENSIONS:**

The authority for the granting of time extensions is provided in Section 13-5-43, Hawaii Administrative Rules (HAR), which allows for permittees to request time extensions for the purpose of extending the period of time to comply with the conditions of a permit.

Additionally, §13-5-43, HAR, states that: "All time extensions shall be submitted to the department thirty days before the expiration deadline. If a request is received less than thirty days before the due date the request for time extension shall be forwarded to the Board for review."

Further, Section 13-5-43, HAR provides that time extensions may be granted by the Board upon the second or subsequent request for a time extension, based on supportive documentation from the applicant.

#### **BASIS FOR TIME EXTENSIONS:**

A time extension may be sought when a Permittee is unable to initiate or complete a project within the stipulated time frame. The Board grants time extensions when a Permittee demonstrates some sort of hardship or delay in completing work on a particular project. Moreover, the Permittee should be able to demonstrate that the hardship or delay has not been self-imposed and that some good faith effort has been made to undertake the project.

**DISCUSSION:**

In the present case, none of these factors suggest any reason to deny the requested time extension. Factors beyond the applicant's control such as programming of Federal funds and appropriations have affected the timeliness of completion of this project. Approval of this time extension request should provide the additional time needed to complete the mirror coating facility.

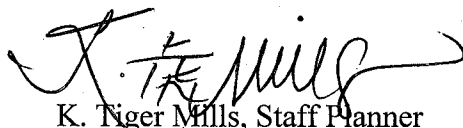
Staff, therefore, has the following:

**RECOMMENDATION:**

That the Board of Land and Natural Resources **APPROVE** a two year time extension for CDUP MA-2705 to complete construction of the Advanced Electro-Optical System (AEOS) 8-Meter Class-Telescope and Related Improvements located at the Haleakala High Altitude Observatory Site, Waiakoa, Papaanui, Makawao, Island of Maui, TMK:(2) 2-2-007:008, subject to the following conditions:

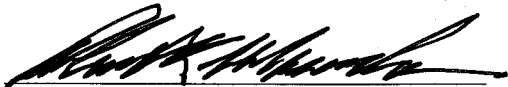
1. That condition 5 of CDUP MA-2705 is amended to provide that the Permittee has until August 25, 2008 to complete construction of the approved AEOS Telescope and related Improvements;
2. That all other conditions imposed by the Board under CDUP MA-2705, as amended, shall remain in effect; and
3. That policies and procedures as defined in the Long Range Development Plan for the University of Hawaii's Institute for Astronomy's Haleakala High Altitude Observatory Site shall be adhered to.

Respectfully submitted,



K. Tiger Mills, Staff Planner  
Office of Conservation and Coastal Lands

Approved for submittal:



PETER T. YOUNG, Chairperson  
Board of Land and Natural Resources

RECEIVED

'94 SEP 9 AM 11:46

REF: OCEA:SKK

DLR  
OCEA



DEPUTIES  
JOHN P. KEPPEL, II  
DONA L. HANA'KE

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

P. O. BOX 621  
HONOLULU, HAWAII 96809

In reply, please refer

to: FILE NO.: MA-3/28/94-2705

180-Day Exp. Date: 9/24/94

DOC. NO.: 4871

AQUACULTURE DEVELOPMENT  
PROGRAM  
AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
CONSERVATION AND  
ENVIRONMENTAL AFFAIRS  
CONSERVATION AND  
RESOURCES ENFORCEMENT  
CONVEYANCES  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
LAND MANAGEMENT  
STATE PARKS  
WATER AND LAND DEVELOPMENT

SEP 1 1994

SEP 2 1994

Dr. Donald N.B. Hall, Director  
University of Hawaii  
Institute for Astronomy  
2680 Woodlawn Drive  
Honolulu, HI. 96822

Dear Dr. Hall:

SUBJECT: Conservation District Use Application for an Advanced  
Electro-Optical System (AEOS) 8-Meter Class Telescope and Related  
Improvements at Haleakala, Maui; TMK: 2-2-07: 08

We are pleased to inform you that your Conservation District Use Application  
(CDUA) for the AEOS telescope and related improvements was approved on August  
26, 1994, subject to the following provisions as outlined in Part A and B:

Part A:

The Board ratified former Chairperson William W. Paty's letter of  
November 21, 1991, to the Director of the Institute for Astronomy  
regarding the disposition of the fine imposed by the Land Board on  
February 3, 1989; and

Part B:

The CDUA is subject to the following conditions:

1. The applicant shall comply with all applicable statutes,  
ordinances, rules and regulations of the Federal, State and County  
governments, and applicable parts of Section 13-2-21,  
Administrative Rules, as amended;
2. The applicant, its successors and assigns, shall indemnify and hold  
the State of Hawaii harmless from and against any loss, liability,  
claim or demand for property damage, personal injury and death  
arising out of any act or omission of the applicant, its  
successors, assigns, officers, employees, contractors and agents  
under this permit or relating to or connected with the granting of  
this permit;
3. The applicant shall comply with all applicable Department of Health  
Administrative Rules;

EXHIBIT 1

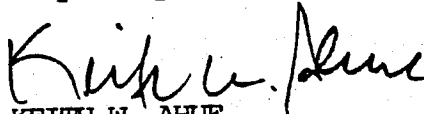
4. Before proceeding with any work authorized by the Board, the applicant shall submit four (4) copies of the construction plans and specifications to the Chairperson or his authorized representative for approval for consistency with the conditions of the permit and the declarations set forth in the permit application. Three (3) of the copies will be returned to the applicant. Plan approval by the Chairperson does not infer approval required of other agencies. Compliance with Condition 1 remains the responsibility of the applicant;
5. Any work or construction to be done on the land shall be initiated within two (2) year of the approval of such use, and all work and construction must be completed within seven (7) years of the approval of such use;
6. The applicant shall notify the Department in writing when construction activity is initiated and when it is completed;
7. That all rights and obligations of Conservation District Use Permit #MA-1240 and subsequent amendments, shall be transferred to the University of Hawaii Institute for Astronomy;
8. That the applicant flag and fence off the two historic sites closest to the construction area (50-11-2805, 2806) prior to the start of work;
9. That prior to the commencement of any earth moving activities, the applicant shall:
  - 1) Submit a preservation plan to the Historic Preservation Division for approval. The plan should minimally include updated maps showing the location of proposed construction, the location of Historic Sites 50-11-2805 and 2806, proposed short term (construction) buffer zones, and a discussion of site fencing procedures and materials to be used. Long-term site preservation should also be discussed;
  - 2) Upon approval of the plan, all short-term preservation measures shall be implemented and inspected by a Historic Preservation division staff archaeologist;
10. Although the report indicates that active Uau or dark-rumped petrel nesting burrows were found to exist less than 250 feet from the project site, the Division of Forestry and Wildlife (DOFAW) shall be notified should burrows be located on site during construction;
11. The applicant shall use shielded low-intensity lights directed toward the ground as a measure to prevent the disorientation of fledgling sea birds in the lowland areas;
12. Construction work shall be limited to daylight hours to minimize the amount of night lighting at the site;

13. DOFAW shall be contacted immediately if Nene and/or Hawaiian bats begin frequenting the project site;
14. Alternative means of disposal of grubbed material and rock shall be utilized other than disposed of at the County landfills;
15. That in issuing this permit, the Department and Board has relied on the information and data which the permittee has provided in connection with his permit application. If, subsequent to the issuance of this permit, such information and data prove to be false, incomplete or inaccurate, this permit may be modified, suspended or revoked, in whole or in part, and/or the Department may, in addition, institute appropriate legal proceedings;
16. That all representation relative to mitigation set forth in the accepted Environmental Assessment for this proposed use are hereby incorporated as conditions of this approval;
17. That failure to comply with any of these conditions shall render this Conservation District Land Use application null and void; and
18. Other terms and conditions as prescribed by the Chairperson.

Please acknowledge receipt of this permit, with the above noted conditions, in the space provided below. Please sign two copies. Retain one and return the other.

Should you have any questions on any of these conditions, please feel free to contact our Office of Conservation and Environmental Affairs staff at 587-0377.

Very truly yours,

  
KEITH W. AHUE

Receipt acknowledged

Mr. D. Hall  
Applicant's Signature

Date Sept 1st 1996

cc: Maui Board Member  
Maui Land Agent  
Maui Planning Dept.  
Maui DP&R, DWS  
DOH/OHA/OSP/DOT

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

P.O. BOX 621  
HONOLULU, HAWAII 96809

ENVIRONMENTAL  
PLANNING AND  
CONSERVATION  
RESOURCES ENFORCEMENT  
CONVEYANCES  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
LAND DIVISION  
STATE PARKS  
WATER RESOURCE MANAGEMENT

Ref:PB:TC

JUL 23 2001

File: CDUA MA-2705

Mr. Rolf-Peter Kudritzki, Director  
Institute for Astronomy  
University of Hawaii  
2680 Woodlawn Drive  
Honolulu, HI 96822

Dear Mr. Kudritzki,

SUBJECT: Time Extension Request for Construction and Completion  
Deadline for Conservation District Use Application  
(CDUA) No. MA-2705 for the Advanced Electro-Optical  
System (AEOS), at Haleakala, Maui

We are pleased to inform you that your request for a time extension of the subject CDUA has been approved. On July 13, 2001, the Board of Land and Natural Resources approved a two-year time extension to allow for completion of the approved mirror coating facility, subject to the following conditions:

1. That condition five (5) of CDUA MA-2705 is amended to provide that the permittee has until August 25, 2003 to complete construction of the mirror coating facility; and
2. That all other conditions of CDUA MA-2705 shall remain in effect, and are not amended by this action.

Should you have any questions, please feel free to call Traver Carroll of our Planning Branch at 587-0439.

Sincerely,



Harry Yada, Administrator  
Land Division

cc: Maui Board member

EXHIBIT 2

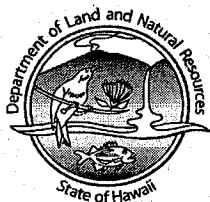
LINDA LINGLE  
GOVERNOR OF HAWAII



PETER T. YOUNG  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

DAN DAVIDSON  
DEPUTY DIRECTOR - LAND

ERNEST Y.W. LAU  
DEPUTY DIRECTOR - WATER



**STATE OF HAWAII**  
**DEPARTMENT OF LAND AND NATURAL RESOURCES**  
**OFFICE OF CONSERVATION AND COASTAL LANDS**

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

REF.:OCCL:DH

FILE NO Cдуа MA-2705

OCT 29 2003

Mr. Robert A. McLaren  
Associate Director  
University of Hawaii at Manoa  
Institute for Astronomy  
2680 Woodlawn Drive  
Honolulu, Hawaii 96822

Dear Mr. McLaren,

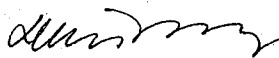
SUBJECT: Time Extension request for Cдуа MA-2705

The Department wishes to inform you that the Board of Land and Natural Resources approved your request for a time extension of the processing period for the subject Cдуа, as amended, on October 24, 2003, and is subject to the following conditions:

1. That Condition 5 of CDUP MA-2705 is amended to provide that the permittee has until August 25, 2006 to complete construction of the approved AEOS Telescope; and
2. That all other conditions imposed by the Board under CDUP MA-2705 shall remain in effect, and nothing else is affected by this action.

Should you have any questions, please contact Dawn Hegger of our Office of Conservation and Coastal Lands staff at 587-0380.

Sincerely,

  
Dierdre S. Mamiya, Acting Administrator  
Office of Conservation and Coastal Lands

cc: Maui County Planning Department  
Maui District Land Office

EXHIBIT 3



55998

UNIVERSITY OF HAWAII AT MANOA

Institute for Astronomy  
Office of the Director

RECEIVED  
OFFICE OF CONSERVATION  
& COASTAL LANDS

June 26, 2006  
2006 JUN 28 P 2:20  
'06 JUN 28 A10:16

Mr. Peter T. Young, Chairperson  
Board of Land and Natural Resources  
1151 Punchbowl Street  
Honolulu, HI 96813

DEPT. OF LAND &  
& NATURAL RESOURCES  
STATE OF HAWAII

Dear Mr. Young:

**SUBJECT: Extension of Conservation District Use Permit for the Advanced Electro-Optical System (AEOS) 8-Meter Class-Telescope and Related Improvements at Haleakala, Maui TMK 2-2-07:08, File no.: MA-3/28/94-2705 Doc. No.: 4871.**

The University of Hawaii, Institute for Astronomy (UH/IfA), requests approval of the Board of Land and Natural Resources for a further extension of the period for construction in the Conservation District Use Permit (CDUP) for the Advanced Electro-Optical System (AEOS) 8-Meter Class-Telescope and Related Improvements at Haleakala, Maui TMK 2-2-07:08, File no.: MA-3/28/94-2705 Doc. No.: 4871. As provided in DLNR Administrative rule §13-5-43 (b), we are requesting an additional two-year extension to complete the construction of a Mirror Coating Facility.

The AEOS Telescope System is the largest and most sensitive telescope within the Department of Defense (DOD). AEOS's mirror was installed in May of 1997 and in order for the system to operate at its full potential, the mirror must be recoated every six to seven years, with the first recoating needed by 2004. The original approved design of the AEOS facility included an 8,400 square foot mirror coating facility. However, the mirror coating facility was not constructed due to funding shortfalls.

In July of 2001, funding was programmed for the Mirror Coating Facility. However, funding was not appropriated until the passing of the FY2004 federal budget. After completing a Federal Environmental Impact Assessment, the facility design process, and the retention of San Juan Construction inc., construction was initiated on 25 January, 2006. Under the CDUP, construction is to be complete by 25 August 2006. Unfortunately, construction is not scheduled to be complete until March 2007.

In order to allow for completion of construction, UH/IfA as the permit holder of record is submitting this CDUP extension request. Should you have any questions, please contact Mike Maberry at (808)876-7600 x-107

Sincerely,

R. P. Kudritzki

Dr. Rolf-Peter Kudritzki  
Director

Cc: Mr. Sam Lemmo, DLNR Land Agent  
Mike Maberry, Assistant Director, Institute for Astronomy  
Lt. Col. Janet Augustine, Site Commander, USAF Research Labs, Det 15

2680 Woodlawn Drive, Honolulu, Hawaii 96822

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EXHIBIT 4